

REMARKS

Claims 1 to 40 are pending in the application, of which claims 1, 14, 27 and 40 are independent. Favorable reconsideration and further examination are respectfully requested.

Claims 13, 26 and 39 were objected to for the informalities noted on page 2 of the Office Action. As shown above, Applicants have amended those claims to address those informalities. Withdrawal of the objection is therefore requested.

Claims 1 to 4, 7 to 10, 14 to 17, 20 to 23, 27 to 30, 33 to 36 and 40 were rejected under 35 U.S.C. §102(b) over U.S. Patent No. 5,687,167 (Bertin); claims 5, 6, 11 to 13, 18, 19, 24 to 26, 31, 32 and 37 to 39 were rejected under §103 over Bertin in view of U.S. Patent No. 6,459,682 (Elleson); and claims 5, 6, 12, 13, 18, 19, 25, 26, 31, 32, 38 and 39 were rejected under §103 over Bertin in view of U.S. Patent No. 6,570,875 (Hedge). As shown above, Applicants have amended the claims to define the invention with greater clarity. In view of these clarifications, withdrawal of the art rejections is requested.

Amended independent claim 1 defines a method of providing access to a resource on a network by installing instructions on the network. The instructions define a fixed level of access to the resource. The instructions comprise instructions to queue data packets having a predetermined priority for later transmission if an amount of data packets exceeds the level of the resource that is available. The method also includes modifying the instructions to change the level of access to the resource.

By queuing data packets having a predetermined priority for later transmission if an amount of data packets exceeds the level of the resource that is available, the invention protects against significant packet loss resulting from bursty traffic.

The applied art is not understood to disclose or to suggest the foregoing features of claim 1. In particular, the art is not understood to disclose or to suggest at least installing instructions to queue data packets having a predetermined priority for later transmission if an amount of data packets exceeds the level of the resource that is available.

In this regard, Bertin describes a system for allocating bandwidth on the network. When allocating bandwidth, the Bertin system does take into account priority levels of data packets (see, e.g., column 14, lines 50 et seq. and column 15). In particular, the Bertin system assigns network bandwidth based on priority, e.g., by preempting lower priority traffic to transmit higher priority traffic. However, as indicated, e.g., at column 8, lines 28 to 31, the Bertin system deals with bursty traffic by simply discarding packets. The Bertin system does not install instructions (and modify them, if necessary) to queue data packets having a predetermined priority for later transmission if an amount of data packets exceeds an amount of the resource that is available.

Hedge and Ellesson, which were cited against the dependent claims, are likewise not understood to disclose or to suggest the foregoing features of claim 1. Accordingly, claim 1 is believed to be allowable.

Amended independent claim 14 a computer program claim that roughly corresponds to claim 1; and amended independent claims 27 and 40 are apparatus claims

Applicants : Yin Pan, et al.
Serial No. : 09/638,372
Filed : August 15, 2000
Page : 13

Attorney Docket No.: 10360-048001
Client Ref.: BA0493

that roughly correspond to claim 1. These claims are also believed to be allowable for at least the same reasons noted above with respect to claim 1.

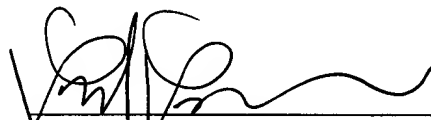
The remaining art of record has been reviewed and is not understood to disclose or to suggest anything that would remedy the foregoing deficiencies of the applied references against the claims. Accordingly, the entire application is believed to be in condition for allowance, and such action is respectfully requested at the Examiner's earliest convenience.

Please apply any deficiencies in fees for this Amendment to Deposit Account No. 06-1050 referencing 10360-046001.

Applicants' attorney can be reached at the address shown above. Telephone calls regarding this application should be directed to 617-521-7896.

Respectfully submitted,

Date: March 22, 2004 (Monday)


Paul A. Pysher
Reg. No. 40,780

Fish & Richardson P.C.
225 Franklin Street
Boston, MA 02110-2804
Telephone: (617) 542-5070
Facsimile: (617) 542-8906